



U.S. Department of Justice


Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 11, 2000

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Robert Raben   
Assistant Attorney General

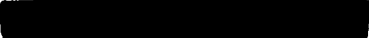
SUBJECT: Weekly Report for December 11, 2000 - December 15, 2000

**THE WEEK AHEAD**

**Wen Ho Lee:** Draft responses to questions for the record from Senator Leahy, in follow up of the September 26 and 27 hearings, are being prepared by the Criminal Division. A draft response to the Intelligence Committees and the Senate Judiciary Committee on conditions of confinement is being finalized in consultation with the Marshals Service. Responses to document requests for sealed records and deliberative materials are being deferred until after conclusion of the debrief; Committee staff have been informed of this. Senator Specter's staff have requested access to the underlying documents used to prepare the Bellows report. Further hearings, if any, will be deferred until after the debriefings are completed. (Walter)

**Telecom:** The DeWine/Kohl telecom merger bill [S. 467], which the Department and FBI oppose because it does not provide adequate protections for law enforcement and national security concerns, is among the measures that could be attached to an appropriations or omnibus bill. OMB and appropriations staff have been alerted to the Department's objections and we are monitoring the bill's status. (Walter)

**GAO Review of Offices of Professional Responsibility:** Senator Thurmond, as Chairman of the Senate Judiciary Subcommittee on Criminal Justice Oversight, asked the General Accounting Office (GAO) to conduct a review of the operations and policies in the Offices of Professional Responsibility (OPR) at both the FBI and Main Justice, focusing on OPR activities pertaining to a pending criminal investigation in Boston. We have advised the Subcommittee staff that the OPR report on the matter is under seal by the Court in Boston and that the reasons for the seal, which pertain to the pending criminal investigation, remain. We are furnishing GAO staff with publicly available documents about the investigation, including indictments and judicial opinions in related cases, which we hope will assist them in persuading the Subcommittee to hold off on the inquiry at this time. (Burton)

**FOIA Request Regarding Our Communications with the House Ethics Committee:** We have been notified that congressional periodical, Roll Call, has requested DOJ records, including OLA attorney notes, regarding our communications with the House Ethics Committee over the past two years about a pending criminal investigation in Boston and a related investigation of the House Ethics Committee about Congressman Bud Shuster. 

FOIA EXEMPTION (b)5

[REDACTED]

On December 6, 2000, we reviewed the relevant documents with staff from the Office of Information and Privacy about how FOIA and believe that we have reached tentative conclusions about how the statute should be applied to protect our interests. We have so advised Committee staff of our tentative conclusions and will continue to coordinate with them about the matter. (Burton)

**Subpoena for House Administrative Records:** We have resolved the issues with an Assistant House General Counsel that arose in connection with two grand jury subpoenas for House administration records relating to an investigation of the Campaign Financing Task Force. The Assistant Counsel insisted upon obtaining information about the underlying investigation, although he would not agree to keep the information confidential. In conversations over the last week, we provided sufficient information to accommodate his information needs, consistent with our interests in the confidentiality of our grand jury proceedings in general and this investigation in particular. We agreed to the Assistant House Counsel's request to extend the deadline for subpoena compliance to December 8, 2000. (Burton)

**Leak prosecutions:** Senator Shelby dropped his attempt to include the leak prosecution provision in the renewed attempt to pass the Intelligence Authorization Bill for 2001. The bill was hotlined on December 6 and passed by unanimous consent in the Senate; the bill is expected to pass the House sometime during the week of December 11 and be forwarded to the President for signature. (Walter)

#### THE WEEK IN REVIEW

**Use of Controlled Substance During Religious Ceremonies:** Congressman DeFazio's office, on behalf of a constituent church, requested a meeting with the Deputy Attorney General on their use of a controlled substance during religious ceremonies. Senators Orrin Hatch, Gordon Smith, Ron Wyden and Edward Kennedy supported the meeting. DEA has been engaged in preparing a response to a letter from Congressman DeFazio on the same subject. On Tuesday, December 5, AAG Robinson met with members of the group, along with representatives of OSG, CIV, OLA, and EOUSA. Subsequently the ASG's office formed a working group to address the matter, further including OLC, ENRD, DEA and OPD. This working group met on Friday, December 8, with staff from Congressman Defazio's office and Senator Smith's office. The working group is now deliberating on the matter. Litigation involving a similar group has now commenced in New Mexico, and is possible in Oregon. (Owen)

**First Federal Execution:** On December 7, staff for House Judiciary Crime Subcommittee Chairman McCollum held a conference call with the Warden at the Federal Prison at Terre Haute and the United States Marshal for the Southern District of Indiana, USMS and BOP Congressional offices, and OLA about the plans in place for the first federal execution which had been scheduled for December 12. On December 7, OLA also participated in a conference call

between BOP and the White House as Congressman Patrick Kennedy had called the President asking that this execution be stopped. That evening the President stayed the execution of Juan Raul Garza for six months to allow the Justice Department time to gather and analyze more information about racial and geographic disparities in the federal death penalty system. (Scott-Finan)

**Prisoner Transfers:** On December 7, the House passed S. 1898, which would require the Justice Department to create standards that private companies must meet for transporting dangerous criminals across state lines, clearing the measure for the President's signature. (Scott-Finan)

**DEA Houston:** On December 6 and 7, the House Committee on Government Reform (Burton, Chair) held an oversight hearing to consider whether a DEA criminal investigation was closed as a result of political pressure. The hearing yielded conflicting testimony concerning the actual actions of DEA, but no indication of any improper political influence. The U.S. Attorney's Office for the Southern District of Texas is considering the impact on its investigations of disclosures of case information by DEA witnesses. (Tanner)

**DNA Backlog Elimination:** On December 6, the Senate passed H.R. 4640, the DNA Backlog Elimination Act, by unanimous consent. This bill authorizes grants to states to reduce the backlogs of DNA samples from convicted offenders and backlogs of crime scene DNA samples. The Senate amended the bill to add a Sense of the Congress concerning the availability of post-conviction DNA testing. The House passed the Senate-amended bill on December 7, by unanimous consent, clearing the bill for the President's signature. (Graupensperger)

**Bankruptcy:** The Senate voted on Tuesday, December 5, 67-31, to invoke cloture on the conference report (H.R. 2415), with 14 Democrats (including Minority Leader Daschle) voting in favor of cutting off debate. Debate began with opponents arguing the bill is imbalanced, and too harsh on consumer debtors with limited repayment ability and not justified by downward filing trends, among other criticisms. Senator Torricelli, a Democratic co-sponsor of the legislation, argued on behalf of the proponents that several pro-consumer provisions were added to the bill at the President's request and warned that a possible Bush administration may not be as friendly toward the consumer protection provisions included in this bill. On November 7, the Senate agreed to the conference report, 70-28, and it was cleared for the White House. The President is still expected to veto the legislation. (Wilson)

**Pending Enrolled Bills:** In the past several days, Congress has passed, and is the process of presenting to the White House, several enrolled bills of interest to the Department. Among them are the following: H.R. 3048, the Presidential Threat Protection Act of 2000; H.R. 4827, enhancing security at federal facilities and airports; and S. 3045, authorizing grants to States for forensic services activities. (Jones)

**Racial Profiling:** On December 4, Senator-elect Jon Corzine met with the Deputy Attorney General, representatives of the Civil Rights Division and the Associate Attorney General's office, as well as the Office of Legislative Affairs, about racial profiling in New Jersey. (Scott-Finan)

**2000 Election:** On December 4, representatives of the Associate Attorney General's office and the Office of Legislative Affairs met with House Committee on the Judiciary Chairman Henry Hyde to discuss the response of the Department of Justice to complaints concerning the conduct of the general election on November 7, 2000. (Tanner)

**Transition:** On December 4, the Government Management, Information and Technology Subcommittee (Horn, Chair) of the House Government Reform Committee held a hearing on whether the Presidential Transition Act of 1963 is being fully implemented, focusing on the decision of the General Services Administration to withhold transition funds while this year's election challenges are heard in the courts. The Department was not invited to testify at this hearing. GSA entered the Department's OLC Opinion of November 28 on the authority of the Administrator of GSA to provide transition assistance to two transition teams of two presidential candidates under the Presidential Transition Act of 1963 into the hearing record. (Scott-Finan)

**Council of Europe Cybercrime Treaty:** On December 4, representatives from the Department, State, and Commerce briefed Senate Foreign Relations and Judiciary staff on the status of treaty negotiations. (Walter, Daley)